

# **Theewaterskloof Municipality**



## **Credit Control & Debt Collection Policy**

**Approved by Council:  
SC05/2019 – 28 May 2019**

## **Index: Credit Control and Debt Collection**

1. Aim of the policy .....	3
2. Background and concept.....	3
3. Structure of the policy document.....	3
Chapter 1: Credit control and debt collection overview.....	4
1. Introduction.....	4
2. Objective.....	4
3. Municipal responsibility/accountability.....	5
4. Governments responsibility/accountability.....	6
5. Principles of credit control and debt collection.....	6
6. Customer Care .....	8
Chapter 2: Credit Control and Debt Collection Policy .....	9
1. Debtors from services rendered .....	9
2. Accounts for services rendered .....	10
3. Receipts and debtors collections .....	11
4. Accuracy of customer billings .....	12
5. Arrear accounts .....	12
6. Interest on arrears.....	15
7. Debtor arrangements.....	15
8. Unauthorised consumption of services .....	18
9. Action against non-payment or defaulters .....	18
10. Realistic targets/performance management .....	20
11. Consumer deposits .....	20
12. Other debtors.....	20
13. Indigent households .....	20
14. Uncollectible arrears .....	20
15. Writing off bad debts .....	21
16. Approval of Building Plans .....	23
17. Issuing of Rate Clearance Certificates .....	24
18. General.....	25

# **1. Aim of the policy**

- 1.1 This policy aims to address the key issues and challenges of credit control and debt collection. The strategic aim is to create an enabling environment in which the objectives of credit control and debt collection can be realised.

## **2. Background and concept**

- 2.1 Local government in South-Africa has undergone an unprecedented change. This includes socio-economic issues in the wake of socio-political reform. The Municipal Systems Act, the Municipal Structures Act, the Municipal Finance Management Act (MFMA), and other legislation created a new dispensation for local government in South-Africa. This policy is aimed at guiding officials in the legislative implementation processes necessary to ensure optimal revenue generation and collection.
- 2.2 Increased revenue forms the base for effective service delivery, infrastructure development, and economic growth. It also contributes to poverty alleviation, the eradication of unemployment, and the redistribution of resources including economic empowerment.
- 2.3 In line with the objective of creating a vibrant and growing Theewaterskloof Municipality (hereinafter referred to as municipality), the credit control and debt collection policy is also aligned to the principles of Batho-Pele.

Service delivery is one of Government's eight priorities as set out in the White Paper on the Transformation of the Public Service. To this effect, government has launched an initiative in South Africa under the banner of Batho-Pele – meaning 'People First' in Sesotho – aimed at improving the delivery of public services. Batho-Pele further aims to ensure that attitudes, systems and procedures are capable of delivering enhanced public services. Batho-Pele is also about ensuring that the resources available are used to the best possible extent, eliminating wasteful and expensive procedures and reducing unnecessary expenditure on inefficient processes and systems.

## **3. Structure of the policy document**

- 3.1 This policy is divided into (2) chapters, excluding the aim, background and the structure of the document. The first chapter provides an overview of credit control and debt collection. The second chapter outlines the credit control and debt collection policy.

# Chapter 1: Credit control and debt collection overview

## 1. Introduction

- 1.1 The municipality, in adopting this policy on credit control and debt collection, recognises its constitutional obligations to develop the local economy and to provide acceptable services to its residents. The municipality cannot fulfil these constitutional obligations unless it extracts payment for the services which it provides and the taxes which it legitimately levies in full from those residents who can afford to pay, and in accordance with its indigent relief measures for those who have registered as indigents in terms of the municipality's approved indigent policy.
- 1.2 It is vital to the long term financial viability of any municipality that it collects the revenues (such as levies, tariffs, rates and taxes) due to it for services rendered. In terms of Section 96 of the Local Government Municipal Systems Act 2000, a municipality
  - 1.2.1 must collect all money that is due and payable to it, subject to this Act and any other applicable legislation; and
  - 1.2.2 for this purpose, must adopt, maintain and implement a credit control and debt collection policy, which is consistent with rates and tariff policies and complies with the provisions of this Act.
- 1.3 For these reasons, the implementation of the credit control and debt collection policy cannot be compromised.

## 2. Objective

- 2.1 The objective of a credit control and debt collection policy is to define a framework within which effective procedures could be developed to identify defaulters. A further objective is to ensure that their failure to meet their financial obligations towards the municipality would be treated in a consistent, fair and effective manner.
- 2.2 In terms of Section 97 of the Local Government Municipal Systems Act 2000, a credit control and debt collection policy must provide for
  - 2.2.1 credit control procedures and mechanisms
  - 2.2.2 debt collection procedures and mechanisms
  - 2.2.3 indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents
  - 2.2.4 realistic targets consistent with
    - 2.2.4.1 generally recognised accounting practices and collection ratios; and
    - 2.2.4.2 the estimates of income set in the budget less an acceptable provision for bad debts.
  - 2.2.5 interest on accounts in arrears, where appropriate
  - 2.2.6 extensions of time for payment of accounts

- 2.2.7 termination of services or the restriction of the provision of services when payments are in arrears
  - 2.2.8 matters relating to unauthorised consumption of services, theft and damages; and
  - 2.2.9 any other matters that may be prescribed by regulation in terms of section 104 of the Local Government Municipal Systems Act, 2000.
- 2.3 A credit control and debt collection policy differentiates between different categories of ratepayers, users of services, debtors, tax services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.
- 2.4 The effective and efficient implementation of this policy will improve the recovery rate of the municipality's debtors. In turn, this will contribute to the realisation of the constitutional objective of providing basic services for human dignity. Increased revenue forms the basis for effective service delivery, infrastructure development, and economic growth.

### **3. Municipal responsibility/accountability**

- 3.1 Section 62 of the Municipal Finance Management Act, 2003 states that the accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that the municipality has and implements a credit control and debt collection policy.
- 3.2 Section 64 of the Municipal Finance Management Act, 2003 states that the accounting officer of a municipality is also responsible for the management of revenue of the municipality.
- 3.3 The accounting officer and his/her designate must take effective and appropriate steps to collect all money due to the institution including as necessary
  - 3.3.1 maintenance of accurate accounts and records for all debtors, including amounts received in part payment; and
  - 3.3.2 referral of a matter to the State Attorney, where economical, to consider a legal demand and possible legal proceedings in a court of law.
- 3.4 Should an accounting officer and his/her designate experience undue interference or influence by a municipality or councillor that prohibits the execution of his/her responsibilities with regard to this policy, he/she should report this to the relevant MEC.
- 3.5 In terms of section 173 of the MFMA, the accounting officer is guilty of an offence if he/she contravenes or fails to comply with credit control and debt collection provisions in terms of the MFMA.

- 3.6 A person is liable on conviction of an offence in terms of section 173 to imprisonment for a period not exceeding five years or to an appropriate fine determined in terms of applicable legislation.

## **4. Governments responsibility/accountability**

- 4.1 The principle of co-operative government forms the basis of the municipality's request for payment. In terms of section 34 (2) of the MFMA, 2003 the national and provincial governments must support the efforts of municipalities to identify and resolve their financial problems.
- 4.2 In accordance with Chapter 3 of the Constitution, national and provincial departments and public entities must promptly meet their financial commitments towards municipalities.
- 4.3 According to schedule 8 of the amended Treasury Regulations, in terms of the Public Finance Management Act, 1999 [section 38(1) (f) and 76 (4) (b)] unless determined otherwise in contract or other agreement, all payments due to creditors must be settled within 30 days from receipt of an invoice or, in the case of civil claims, from the date of settlement or court judgement. Government therefore has an obligation to settle its municipal debt within 30 days.
- 4.4 In case of any dispute between the municipality and an organ of state the matter must be reported to National Treasury for intervention in line with the principles of co-operative governance.

## **5. Principles of credit control and debt collection**

- 5.1 Inherent in the credit control and debt collection policy is the municipality's vision of driving the right behaviour. The aim is to get municipal officials to adhere to acceptable standards of performance. The policy is also built on the principles of good corporate governance which can be defined as the system by which the municipality is directed and controlled. The policy is therefore based on the following principles
- 5.1.1 discipline
  - 5.1.2 transparency
  - 5.1.3 independence
  - 5.1.4 accountability
  - 5.1.5 responsibility
  - 5.1.6 fairness; and
  - 5.1.7 social responsibility.
- 5.2 This policy will not make allowance for unacceptable behaviour of any party.
- 5.3 Considering the socio-economic conditions such as the level of unemployment and poverty amongst other conditions presently prevalent in South Africa, the enforcement of payment for services will only be effective if based on acceptable

principles. Furthermore, the ability to pay has to be separated from indigent members of the community.

5.4 The following principles should be considered

- 5.4.1 The municipality should at all times be aware of the national credit control and debt collection initiatives. There are also numerous support mechanisms that the municipality need to be aware of.
- 5.4.2 The municipal manager should report any challenges that officials are experiencing to enforce credit control and debt collection to the municipal council. Reporting frameworks to the municipality for credit control and debt collection should be decided upon by the municipality.
- 5.4.3 Credit control and debtors procedures must be understandable, uniform, fair and consistently applied. Members of the community must understand these procedures to lessen possible disputes when applied. A fair, uniform system would ensure that any two community members in exactly the same situation would be treated in exactly the same way. This will enhance the community's perception of the municipality and aid in the acceptance of the procedures.
- 5.4.4 Credit control must be effective, efficient and economical. To be effective the credit control policies and procedures must result in the improvement of the recovery rate of the municipality's debtors.
- 5.4.5 The measures taken must be sustainable in the long term. Policies and procedures that are adopted should not be "quick fix" solutions but should lay the foundations for a system that can continuously and effectively address credit control issues.
- 5.4.6 A proper indigent policy must be in place. Such a policy will enable the municipality to differentiate between community members that cannot pay and those that simply don't want to pay.
- 5.4.7 The implementation of this policy requires the full cooperation of all sections within the municipality. The cooperation of the finance, engineering, and corporate service divisions are particularly important for the implementation of this policy.
- 5.4.8 Inherent in the credit control and debt collection policy is the Municipality's vision of driving the right behaviour. The municipality will not utilise service providers (including directors and owners) who have not settled their municipal accounts.

## 6. Customer Care

- 6.1 In terms of Section 95 of the Local Government Municipal Systems Act 2000, in relation to the levying of rates and other taxes by a municipality and the charging of fees for municipal services, the municipality must, within its financial and administrative capacity
  - 6.1.1 establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality itself
  - 6.1.2 establish mechanisms for users of services and ratepayers to provide feedback to the municipality or other service providers regarding the quality of the services and the performance of a particular service provider
  - 6.1.3 take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the way in which monies raised from the service are utilised
  - 6.1.4 where the consumption of services have to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems
  - 6.1.5 ensure that persons liable for payments receive regular and accurate accounts and indicate the basis for calculating the amounts due
  - 6.1.6 provide accessible mechanisms for those persons to query or verify accounts and metered consumptions, and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts
  - 6.1.7 provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality
  - 6.1.8 provide mechanisms to monitor the response time and efficiency in complying with the above point; and
  - 6.1.9 provide accessible pay points and other mechanisms for settling accounts or for making pre-payments for services.
- 6.2 Credit control Customer Care are assented on the Batho-Pele Principles.



## Chapter 2: Credit Control and Debt Collection Policy

### 1. Debtors from services rendered

- 1.1 The municipality will raise a debtor for all services delivered in line with the tariff and rate policy. The municipality will also raise a debtor for all other services where income is due to the municipality.
- 1.2 A service agreement shall be entered into with the municipality for each new application to which the municipality is expected to provide all or any of the following services
  - 1.2.1 water;
  - 1.2.2 electricity (to be determined);
  - 1.2.3 refuse collection;
  - 1.2.4 sewerage; and
  - 1.2.5 sundries and other debt.
  - 1.2.6 The applicant may be required to undergo a full credit check in an endeavour to trace all debt inclusive of municipal debt owed by the applicant. This will require the provision of; inter alia, acceptable means of identification.
- 1.3 Such contract shall set out the conditions on which services are provided and shall require the signatory to note the contents of the municipality's credit control and debt collection policy. An abbreviated extract of this policy will be supplied to the consumer, as well an extract from the Municipal Systems Act 32/2000 relating to access to property.
- 1.4
  - (a) All new agreements, for the rendering of services, with non-indigent consumers will only be entered into with the owner of the property. (Section 118 of the Municipal Systems Act, Act 32 of 2000, should be brought under the attention of the owner or his duly authorised agent). Except when an owner is untraceable the account can be opened in the name of the occupant.
  - (b) Indigent Tenants: An account may be opened in the name of the tenant on successful application to be classified as indigent, provided that the owner gives written consent that the tenant is the occupant, the amount of monthly rental payable and a further undertaking that the owner must inform council in writing when the tenant vacates the house in order to terminate the subsidy. If not terminated, the owner will be held liable for any undue subsidies granted to him (owner) or a new tenant. (A separate group code must be opened for "Tenants Indigents".)
- 1.5 Other service level agreements could be entered into with various role-players to implement the socio-economic objectives of Government.
- 1.6 Where no Service Level Agreement exists for functions rendered from other spheres of Government, Service Level Agreements need to be concluded.

- 1.7 Owners and tenants will be held responsible for the unpaid municipal charges of the tenants. This places a direct administrative obligation on owners to ensure that their tenants pay their municipal services. A prescribed surety form must be completed by owners in respect of service agreements of tenants.

## **2. Accounts for services rendered**

- 2.1 Accounts should be rendered promptly on a monthly basis to all consumers or owners of properties. Accounts must be prepared by the last working day of the month and must be posted to the consumers immediately thereafter as the consumer must settle the account on or before the 25<sup>th</sup> of every month.
- 2.2 The account/invoice must be printed on a standard form which must contain the following details:
- 2.2.1 consumer name
  - 2.2.2 consumer account number
  - 2.2.3 consumer postal address
  - 2.2.4 residence/erven details to where the service(s) have been supplied
  - 2.2.5 all details of services that have been supplied i.e. electricity, water, rates, refuse removal, etc.
  - 2.2.6 any outstanding balance from the previous month;
  - 2.2.7 amount paid;
  - 2.2.8 any accrued interest or fines
  - 2.2.9 VAT registration
  - 2.2.10 Date of meter reading
- 2.3 Owners of property will be assured that accounts are accurate, and metered services are being read on a monthly basis. Where it is impractical to read meters, alternative control mechanisms will be used to prepare a fair account.
- 2.4 A person is liable for payment of an account, whether or not that person has received an account by mean of posting, email or hand delivery.
- 2.5 In Deceased Estates the following:

The municipality reserves the right to terminate all services after death if the account fall into arrears or no new application for services is received.

An account for services may be opened in the name of the occupant/tenant/beneficiary (the application for services needs to be accompanied by the registered owner's death certificate and affidavit of date of occupation)

No indigent subsidy will be approved if owner is deceased, unless the tenants/occupants qualify in terms of the Indigent Policy and acceptable arrangements is made.

### 3. Receipts and debtors collections

- 3.1 All funds due to the municipality must be collected timeously and banked on a daily basis. Apart from not earning interest, cash left in the safe could result in higher insurance premiums to cover the additional risk. Cheque payments in excess of R 100 000 must be deposited into the bank account on the same day when necessary.
- 3.2 All moneys collected by the municipality must be banked in the primary bank account of the municipality. Traffic money collected and deposited into traffic bank account must be transferred into the primary bank account daily.
- 3.3 Moneys collected by some other agency on behalf of the municipality shall be paid over to the municipality or deposited in the bank account of the municipality in a manner prescribed by the municipal manager [Section 64(2)(d)].
- 3.4 The receipt of all monies collected by the municipality shall be acknowledged forthwith by the issue of a numbered official receipt. Cash payment should not be made without a receipt being issued.
- 3.5 The person responsible for receipting of monies received from debtors must not be the debtor's clerk. The two positions must be kept separate and filled by different people. This is done to reduce the risks of fraud within the municipality.
- 3.6 All receipts must be correctly allocated to the relevant debtor's account. Furthermore, the amount must be correctly allocated to the services that are being paid for. A principle of oldest debt first will be followed. On current accounts credits will be allocated as follows
  - 3.6.1 first, to any unpaid costs incurred by the municipality in respect of notices, legal expenses and reconnections or reinstatements of services of the account or property concerned
  - 3.6.2 second, to any unpaid interest raised on the account
  - 3.6.3 third, to any unpaid sewerage charges
  - 3.6.4 fourth, to any unpaid refuse collection charges
  - 3.6.5 fifth, to any unpaid water charges
  - 3.6.6 sixth, to any unpaid electricity charges; and
  - 3.6.7 last, to any unpaid property rates.
- 3.7 Any unknown receipts will be left temporarily in a debtor's receipts clearing or suspense account. These amounts must be traced to deposits or remittances and must be followed up without delay by contacting the payee or bank where applicable, to verify for what or whom the payment was received.
- 3.8 The debtor's receipts clearing or suspense accounts must be cleared at least on a weekly basis.
- 3.9 All payments by cheques should reflect the ID number, account number and telephone number of the drawer.

- 3.10 Cashier must ensure that cheque amount correspond to digits and that the dates are correct, cheque signed and that no alterations are effected on the cheque.
- 3.11 Consumers who pay electronically or by direct deposit must clearly specify the details of payment and / or send such details to the municipality.
- 3.12 Review debt collection performance by comparing the debtors outstanding in relation to total turnover. The outcome is then compared with previous financial years to determine the status of the debt collection process.

## **4. Accuracy of customer billings**

- 4.1 The debtors system must correctly reflect all monies owed to the municipality. Furthermore, a well-managed debtors and banking control system must be implemented to ensure that funds owed to the municipality are correctly determined, received and banked.
- 4.2 If the municipality is unable to read any meter on any property because the meter has been rendered inaccessible through any act or omission of the accountholder or owner of the property concerned, the municipal manager shall estimate the consumption of the service concerned by determining the monthly average of the metered consumption recorded on the three most recent accounts for which meter readings were obtained (or a longer period, if justifiable). The accountholder will then be billed for the monetary value of such estimated consumption until the meter is again rendered accessible.
- 4.3 Payment of consumption by contractor.
- 4.4 A Consumer may qualify for a percentage reduction on his/her account in the event of a water leakage, if:
  - a) the leakage was underground or under the foundation of the building and not easily detectable; and
  - b) the leakage was repaired within 48 hours after detection
  - c) the consumer submits a sworn affidavit by him/herself confirming that his/her insurance(s) does not cover such losses; and
  - d) a written confirmation from the consumer's insurance must also be submitted together with the sworn affidavit in which they confirm that the Insurance Policy of the consumer indeed does not cover any losses due to leakages; and
  - e) the consumer has not applied for discount within the previous 12 months;
  - f) an authentic certificate issued by a registered plumber must reach the Municipality within 10 days after completion of repairs done with respect to a water leakage and must contain the following:
    - i) the date of the invoice and repair work as well as the receipt; confirmation that underground leakage was not visible; certify that the leakage originated from pipes listed of approved pipes held by Technical services
    - ii) water lost due to the meter or pipes being stolen, defective irrigation, broken geyser, leaking toilet or leaking tap cannot be considered for write off;

- iii) council may only allow a write off, of 60% of the losses and to the maximum of R25,000.00

## **5. Arrear accounts**

### **5.1 The following must be implemented in terms of section 96 of the Local Government Municipal Systems Act 2000**

- 5.1.1 An age analysis must be printed on a regular basis. Any amounts outstanding over 30 days must be followed up immediately. Consumers must settle the account on or before the 25<sup>th</sup> of every month.
- 5.1.2 When accounts are printed at the end of each month, the total of the accounts printed must agree to the age analysis. Any difference must be reconciled immediately and corrected.
- 5.1.3 Any amounts over 30 days must be reported to the Chief Financial Officer. The consumer must be notified that should the account not be paid WITHIN 48 HOURS FOR BUSINESSES or 14 (Fourteen) DAYS FOR RESIDENTIAL CONSUMERS the service(s) will be disconnected / restricted or prepaid water meter may be installed. It is the Finance Department's responsibility to notify the Engineering Department thereafter to the Town Manager of the relevant cut-offs (subject to compliance with Water & Service Electricity Acts).
- 5.1.4 The consumer will be held liable for all disconnection and reconnection charges.
- 5.1.5 A consumer's supply may not be reconnected until such time as the consumers account is settled in full or with appropriate arrangements in terms of Section 7 including any reconnection/disconnection charges and interest that may have been accrued
- 5.1.6 Should a consumer fail to pay their account even once the service has been terminated, the credit control and debt collection policy must be implemented to recover the outstanding amount due.
- 5.1.7 The council may install prepaid water and electricity meters at its discretion when debtors enter into agreement to pay off arrears.
- 5.1.8 The council may replace existing credit meters for water and electricity with prepaid meters at its discretion to prevent debtors already in arrears to accumulate further debts for the services of water and electricity.  
In terms of section 28(1) of Municipal Property Rates Act, 2004: If an amount due for rates levied in respect of a property is unpaid by the owner of the property, the municipality may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after the municipality has served a written notice on the owner and tenant/s and/or occupier/s. Any amount a municipality recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner. The tenant or occupier of a property must, on request by a municipality, furnish the municipality with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent to other money payable on the property during a period determined by the municipality.

- 5.1.9 In terms of Section 28(1) of Municipal Property Rates Act, 2004: If an amount due for rates levied in respect of a property is unpaid by the owner of the property, the municipality may recover the amount in whole or in part from a tenant or occupier of the property, despite any contractual obligation to the contrary on the tenant or occupier. The municipality may recover an amount only after the municipality has served a written notice on the owner and tenant/s and/or occupier/s. Any amount a municipality recovers from the tenant or occupier of the property must be set off by the tenant or occupier against any money owed by the tenant or occupier to the owner. The tenant or occupier of a property must, on request by a municipality, furnish the municipality with a written statement specifying all payments to be made by the tenant or occupier to the owner of the property for rent or other money payable on the property during a period determined by the municipality.
- 5.1.10 The Municipality reserves the right to refer debtors in arrears to Credit rating Agencies for collection which could lead to these debtors being listed with an adverse credit rating.
- 5.1.11 The municipality may-
- (a) consolidate any separate accounts of persons liable for payments to the municipality;
  - (b) credit a payment by such a person against any account of that person; and
  - (c) implement any of the debt collection and credit control measures provided for in this policy in relation to any arrears on any of the accounts of such a person.
- 5.1.12 Disputes  
Withholding payments on levies for municipal services and property rates are limited to specific services and amounts. Valid levies and other valid outstanding amounts are still payable and will not prohibit efforts to collect these valid amounts. (Refer Art 102 of Systems Act)
- 5.1.13 Query or verify of Consumer accounts
- 1) Query or verify
- (a) To query or verify an account refers to the instance when a debtor queries any specific amount or any contend contained in any account as rendered by TWK to that personas per the process contained herein;
  - (b) When a debtor queries an account such debtor must furnish full personal particulars including any acceptable means of identification, all account numbers held with TWK Municipality, direct contact telephone numbers, fax numbers, postal and e-mail addresses and any other relevant particulars required by TWK;
  - (c) All queries shall be acknowledged and dealt with as promptly and efficiently as possible by TWK Municipality
    - (i) Where required an outcome shall be conveyed to the debtor; and
    - (ii) Where an account query has arisen, the amount queried shall not be subject to the debt collection by TWK until the

- query has been resolved and the outcome has been communicated to all parties, where relevant;
- (d) The Municipal Manager may suspend any debt collection action, pending the outcome of any query;
  - (e) Notwithstanding any query on any account the account must still be paid, in terms of the provisions contained in the policy, once any queries have been resolved, where relevant; or
    - (i) Subject to any other legislation, payment must be based on the normal average of past accounts rendered until the query is resolved by the Municipal Manager; and
    - (ii) That portion of the account which is not subject to the query must still be paid; and
  - (f) Should a debtor not be satisfied with the outcome of the query, a debtor may lodge an appeal in terms of section 62, as read with Section 95 (f), of the Municipal Systems Act;
  - (g) The onus will be on the debtor to ensure that a written acknowledgement of receipt is received for any correspondence lodged with TWK; and
  - (h) The onus will be on the debtor to ensure that a suitable response to any query is received.

## 2) General

- (a) The Municipal Manager may require that any official attend any meeting in order to assist with the investigation relating to the facts surrounding any query, verification of any account or any dispute; and
  - i) The Municipal Manager has the right to call for any document, book, and computer data or record which in his or her sole discretion is deemed necessary to assist in attempting to deal with any issue referred to in this policy.
  - ii) Failure to produce any information as required in terms of sub-item (i) may result in restriction, disconnection or discontinuation of any supply of services, or any relevant action in terms of this policy.

## 6. Interest on arrears

6.1 Interest at the rate as determined by the municipality (normally one percent higher than the prime rate) in accordance with the Municipal Systems Act 32, 2000 will be charged on arrears on the day the month end run will be conducted. For this purpose, part of a month will be treated as a full month. Interest rate determined on a monthly basis at Prime + 1%.

6.1.1 No interest to be charged on consumer accounts in the name of Theewaterskloof Municipality with the exception of rental contracts.

- 6.1.2 Household consumers with total earnings of less than R5 000 per month be given grace-period until the last working day of the month to pay their monthly accounts.

Conditions:

- They must apply in writing on a prescribed form.
- If they fail to settle by the prescribed date, they will be disqualified.

## **7. Debtor arrangements**

- 7.1 Extensions for payment will only be granted for

7.1.1 administrative or calculation errors on accounts, however this is applicable to the disputed amount only and the undisputed amount must be paid in full

7.1.2 the finalisation of a late estate; and

7.1.3 any other request for extension subject to the guideline laid down by this policy.

- 7.2 Extension will be handled on the merit of the case and the term of extension should be handled on merit in a fair, unbiased and practical manner. Relevant documentation may be required to substantiate the arrangement.

- 7.3 The municipal manager or his/her designate will use his/her discretion whether defaulting accountholders are allowed to make arrangements for the payment of arrears. Each defaulting accountholder shall be allowed a reasonable maximum period within which to pay an account in arrears, together with the interest accrued on such an account. A condition for such an arrangement shall be that the accountholder is bound to pay every current municipal account in full and on time during the period over which such an arrangement extends. If an accountholder breaches any material term of an arrangement, the balance of the arrear accounts, together with the balance of interest raised on such account, shall immediately become due and payable to the municipality. Moreover, if the accountholder defaults on such payment, the municipal manager or his/her designate shall terminate/restrict water and or electricity services to the property in question and shall forthwith institute legal action. An accountholder who has breached an arrangement as set out above shall not be allowed to make any further arrangements for the account(s) in arrears. Instead, after dispatching the initial notice of default as stipulated in the actions against defaulters and the failure by the accountholder to pay the accounts in arrears, including the interest raised on such an account, the defaulting accountholder shall be proceeded against as required in terms of such notice, as though such accountholder had breached a material term of an arrangement.



7.4 The following arrangements for the payment of accounts in arrears (for debt incurred before the policy) should be considered

- 7.4.1 If the overdue balance contains amounts which have been outstanding for longer than twelve months, there should be a  $\frac{1}{12}$  amount of the total overdue balance that will be accepted as an initial payment. The municipal manager may decide on an arrangement to settle the balance in equal instalments. The maximum period is twelve months within the financial year.
- 7.4.2 If the overdue balance contains amounts which have been outstanding for less than twelve months, there should be a  $\frac{1}{6}$  for 12 months,  $\frac{1}{8}$  for 8 months of the total overdue balance that will be accepted as an initial payment. The balance should be settled in equal instalments over a maximum period of six months.
- 7.4.3 A debtor who, without notifying the municipal manager or his/her designate, fails to comply with any arrangements, is automatically excluded from the right to be considered for a further extension. The Municipal Manager or his/her designate is not obliged to notify the debtor of the failure.
- 7.4.4 If after continuation, the debtor again applies for arrangement, the municipal manager or his/her designate may consider this. However, if services have been discontinued or restricted, such further arrangement will exclude the continuation of the service until full payment has been received by the municipality.
- 7.4.5 \*\*Alternative payment arrangements may be negotiated under set conditions, which the municipal manager or his/her designate may determine.
- 7.4.6 Council may deduct 10% to 50% of Electricity Purchases amount to settle unpaid Rates and Services Debts from 10% escalating with 10% per number of months in arrears.

That sewer blockages at non-indigent households be affected before payment if the household is unable to pay in advance and that the account be debited with such charges.

\*\* Written confirmation of alternative payment arrangements will specify the due dates, the disconnection process, the reconnection processes, penalties, etc. The condition that any future monthly accounts are paid by the standard due date will be automatically included.

7.5 That the requirement that municipal debt should not be in arrears will be waved as a requirement for SMME's and that it be agreed that debt payments must be deducted from payments due to appointed tenderers who owes the municipality.

## **8. Unauthorised consumption of services**

- 8.1 A debtor who reinstates his/her full water and electricity capacity will be regarded as illegal and unauthorised.
- 8.2 The connection will be removed at the owners cost and will not be reinstated until such time the full outstanding cost is paid to the municipality and the penalties, additional service connection, and consumer deposit will be levied in accordance with the municipality's tariff of charges and by-laws.
- 8.3 All current illegal connections will have five (5) working days to declare and legalise their connection from the date of the implementation of this policy.
- 8.4 After the period of five (5) working days, all users of illegal connection will be prosecuted.
- 8.5 The municipal manager shall, as soon as it comes to his notice that any terminated or restricted service has been irregularly reconnected or reinstated, report such action to the South African Police Service (to criminally prosecute), disconnect or restrict such service(s), and not terminate or reinstate such service(s) until the accounts in arrears, including the interest raised on such account, the charges for the notice sent and the charges for both the original and subsequent reconnection or reinstatement of the service(s) and the revised deposit have been paid in full, together with such penalty as may be determined by the municipality from time to time.

## **9. Action against non-payment or defaulters**

- 9.1 As the accrual system is used to record income it requires that all income must be collected to finance expenditure. The principle is accepted that recurring income must finance recurring expenditure within the budget cycle of twelve months. The debtors turnover rate should not at any time exceed the national norm of forty two days.
- 9.2 Letter of demand
  - 9.2.1 Notice will be given by letter of demand, electricity and water notice, or sms to every owner or consumer, who is in arrears with his/her municipal account,
  - 9.2.2 However, within seven (7) calendar days after each monthly due date for payment of municipal accounts for property rates and/or service charges, the municipal manager shall send out the letter of demand to every defaulting account holder. Every defaulting account holder who as at the date of the notice not paid the monthly account in full or has not made an acceptable arrangement with the municipal manager for partial or late payment, a notice stating that unless full payment is received or an acceptable arrangement made with the municipal manager for partial or late payment, the municipal water and electricity supply of the property

to which the account in arrears relates, shall be terminated or restricted Fourteen (14) calendar days after the date of the notice for residential properties and 48 hours for businesses. Disconnections/restrictions will not be affected for residential properties on Friday to Sunday or any day on / before a Public Holiday. It shall be specifically recorded that the water connection for residential consumers shall not be disconnected, instead it will be restricted.

### 9.3 Restriction/discontinuance of service

#### 9.3.1 Water and electricity services

9.3.1.1 Services will be restricted with immediate effect if payment arrangements are not adhered to. Alternative arrangements need to be in place. Should it be noted that consumption is registered after disconnection, the connection will be removed at the owners cost and will not be reinstated until such time the full outstanding cost is paid to the municipality including the additional service connection and consumer deposit required. There must be no political interference in the process being followed by the municipal manager in the collection of tariffs (Municipal Finance Management Act).

9.3.1.2 If the municipal manager is of the opinion that the restriction of water services, in the case of a particular property in respect of which the account is in arrears, is not in the best interest of the community – specifically because of the potential endangerment of the life of any person, whether a resident in or outside the property is concerned – he/she may appropriately restrict rather than terminate the water and electricity services in question, provided that such restricted services shall not exceed 6 kl per month in the case of water.

9.3.1.3 If a debtor's account is in arrears for more than 30 days, water and electricity will be restricted (or disconnected where appropriate) to the minimum level (where appropriate) as approved by municipality in the budget for the year. It shall be specifically recorded that the water connection for residential consumers shall not be disconnected, instead it will be restricted.

#### 9.3.2 Rates, Refuse Removal, Sewerage, and sundries

The municipality will institute legal action and take steps to attach or dispose of the applicable properties in lieu of outstanding rates and charges.

#### 9.3.3 Land and rental instalments

The deed of a sale or a lease agreement will be cancelled and eviction orders will be obtained. Outstanding amounts will be recovered through legal action (defined in the deed of sale) and/or listing with the Information Trust Corporation (Credit Bureau).

#### 9.4 Agents' attorneys and other collection agents

All external agents acting on behalf of a municipality are to be named together with their account details and contact information. Under no circumstances may agents negotiate terms, extend payment periods or accept cash on behalf of a municipality, unless specifically instructed in writing to do so. The liability for the cost of legal action and other credit control actions must, as far as is legally possible, be for the account of the debtor.

#### 9.5 Legal action

9.5.1 The issuing of letter of demand to defaulters is the beginning of a legal process and payments for amounts outstanding can only be made to the municipality.

9.5.2 It is important that legal action be instituted against defaulters when the credit control section was unsuccessful with the collection process. The legal process (including judgement and execution of firstly moveable and thereafter immoveable assets) will be followed against defaulters who do not respond to letters of demand.

9.5.3 In any event, if water and electricity services have been terminated or restricted in the case of a property in respect of which the account is in arrears, and the accountholder has not paid such arrears, including the interest raised on such account, or made an acceptable arrangement with the municipal manager for the payment of the account in arrears, including the interest raised on such account, within a period of 28 (twenty eight) calendar days after the date of termination or restriction of the service(s) concerned, the municipal manager shall forthwith institute legal action.

9.5.4 If accounts are handed over for collection to an external Attorney, the debtor will be responsible for all legal costs to the Municipality.

#### 9.6 Credit Bureau listings

The names of debtors in accordance with the municipality's records will, after court judgement, be automatically listed with credit bureaus simultaneously with the handing over of amounts for collection.

### **10. Realistic targets/performance management**

In terms of the budget approved by the municipality, and in accordance with commonly accepted best practice, this municipality will have to strive to its utmost to ensure that payment levels for the present and future financial years, in respect of all amounts legitimately owed to the municipality – that is, inclusive of the balance of the monthly accounts payable by registered indigents – are maintained at a high level.

## **11. Consumer deposits**

Deposits of defaulters may be adjusted or recalculated to cover at least two times the estimated consumption and basic fees for the services of water, electricity, refuse and sewerage. The minimum deposits required shall be approved with the tariff and charges annually. The deposits will be applied to defaulters and new owners.

## **12. Other debtors**

Amounts due to the municipality for any other services rendered shall be due and payable when the service is rendered. Notwithstanding any disputes that may arise, the outstanding amounts will bear interest and all amounts outstanding after 90 days shall be handed over for collection.

## **13. Indigent households**

Indigent households will be handled in terms of the municipality's indigent policy. Although the municipality has adopted an indigent policy, every consumer will be subject to conditions set in this policy and any bylaw that emerges from this policy.

## **14. Uncollectible arrears**

The effective implementation of the present policy also implies a realistic review of the municipality's debtors' book on an ongoing basis. The municipal manager should regularly report to the municipal council on irrecoverable arrears written off by the Municipal Manager in consultation with Executive Mayor and Director: Financial Services taking in account prescription and economic benefit of such write off. All debts write off must be reported to Council at least quarterly and approved by the municipality to effect such write offs.

## **15. Writing off bad debts**

Debt will only be considered as irrecoverable and only be written off after all reasonable steps have been taken to recover the debt, in accordance with this policy, and the municipality is convinced that

- 15.1 recovery of the debt would be uneconomical
- 15.2 recovery would cause undue hardship to the debtor or his/her dependants;  
and
- 15.3 it would be an advantage to the municipality to effect a settlement of its claim or to waive the claim
- 15.4 qualify for consideration as follow:
  - (a) all reasonable notifications and cost effective legal avenues have been exhausted to recover a specific outstanding amount; or

- (b) any amount equal to or less than R1000.00, or as determined by Council from time to time, will be considered too small, after having followed basic checks, to warrant further endeavours to collect it; These amounts to be submitted to the Chief Financial Officer for consideration to write –off. These amounts to be presented to Council for notification after the fact.
- (c) the amount outstanding is the residue after payment of a dividend in the rand from an insolvent estate; or
  - (i) there is a danger of a contribution; or
  - (ii) no dividend will accrue to creditors; or
- (d) a deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
  - (i) where the estate has not been reported to the Master and there are no assets of value to attach; or
  - (ii) it has been proven that the debt has prescribed; or
- (e) the debtor is untraceable or cannot be identified so as to proceed with further action; or
- (f) the debtor has emigrated leaving no assets of value to cost effectively recover Councils claim; or
- (g) it is not possible to prove the debt outstanding; or
  - (i) a court has ruled that the claim is not recoverable; or
  - (ii) the outstanding amount is due to an irreconcilable administrative error by the Municipality; or
- (h) conversion of old dormant account balances of debtors, inherited from the previous municipalities which now form part of the Theewaterskloof Municipality, and where reasonable steps have been taken to recover these debts; or
- (i) all debtors who are registered as indigent as more fully set out in Indigent Policy will have their arrears written off; or
- (j) an offer of full and final settlement written offer must be submitted to a committee of Council for consideration
- (k) all arrears may be written off to bad debts where Council-
  - (i) expropriates any property; or
  - (ii) purchases any property in terms of item 10 (1) (f); or
- (l) through supporting Theewaterskloof housing related debt management processes and in instances where a housing debtor has applied for and been granted a housing indigent grant in terms of the Indigent Policy, all debt related to that property for that debtor (excluding capital debt of home ownership units), up to the date of granting of indigent status will be written back.
- (m) this assistance will only be granted to an organization subject to the condition that an electricity repayment meter and a water management device must be installed, where applicable;

- (n) should any tampering with or bypassing of the water and electricity meters be discovered, any arrears written-off, in terms of this sub-item, will become payable with immediate effect and any other action as per any legislation or policy that applies to such tampering and/or bypassing will be instituted;

15.5. Authorisation

- (1) In respect of other debt, schedules indicating the debtor account number, the debtor's name, the physical address in respect of which the debt was raised, address, erf number, if applicable, amount per account category as well as a reason to write-off the amount must be compiled.
- (2) Notwithstanding the above, the Municipality or its authorised officials will be under no obligation to write-off any particular debt and will always retain sole discretion to do so.

15.6 be disclosed in the annual financial statements, indicating the policy in terms of which the debt was written off; and

15.7 Council to only consider writing off debts by indigent consumers who have been classified as indigent consumers for more than 3 (three) months.

## 16. Issuing of Rate Clearance Certificates

17.1 The following fees must be paid before a rates clearance certificate is issued:

17.1.1 Valuation certificate.

17.1.2 Clearance certificate.

17.1.3 Municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties for a minimum of three (3) months or as determined in the application request from the Attorneys.

In terms of section 118 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) it is hereby certified that all amount that became due to Theewaterskloof Municipality in connection with the under mentioned property situated within the municipality for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the 2 (two) years preceding the date of application for this certificate, have been fully paid.

If however there is still an amount outstanding debt on a said property which remains a charge upon the property by virtue of Section 118 (3) of Systems Act and is then deemed to be recoverable from any owner at the time through instituting legal proceedings.

Municipal debts include: debts up to 30 years old for rates, refuse and sewer charges; and debts up to 3 years old for electricity and water consumption.

Section 118 (1) refers to debts incurred within the “two years” prior to the application for a clearance certificate. Such debt must be paid in full, failing which the municipality can exercise a restraint on the transfer of the property until the debt is settled. Such a provision is known as a veto or embargo provision.

Section 118 (3), creates a charge over the property in favour of the municipality. In addition Section 118 (3) gives the municipality a “preferent” right which ranks higher than that of the Bank in respect of mortgaged property.

The Municipality can take legal action against the present owner of a property for any municipal debts owing by that owner and any previous owner of that property, provided the amounts have not prescribed and that all by-laws have been complied with. It can include debts up to 30 years old (for rates, refuse and sewer charges) and 3 years old (for electricity and water consumption), including debts of more than one previous owner. Such legal action would entail suing the new owner for the old owners debt and attaching



and selling the property itself, which stands as security in terms of Section 118 (3).

The municipality's right to claim the proceeds of the sale of property trumps the banks right to claim what is owed in terms of the mortgage bond. Consequently the banks risk assessment of purchasers of immovable property can never be accurately done, as it cannot realistically assess the risk that the purchaser may be called upon to settle the debts of previous owners.

If however there is still an amount outstanding debt on a said stand, which remains a charge upon the property by virtue of Section 118(3) of the Systems Act and is deemed to be recoverable from any owner at the time of legal proceedings.

17.2 All debt must be recovered (including tenants' accounts) before Clearance Certificates are issued: Owner remains liable for all debt to a property.

17.3 Business Licences are not granted to those who owe council.

## **18. General**

This policy is to be applied by all officials in the Municipality.